

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

HEATHER M. VAN ALSTINE

Respondent

Case No. 2012-320

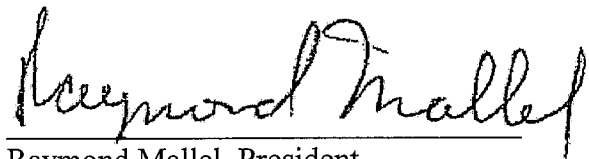
OAH No. 2012030040

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary order for Public Reprimand is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **January 25, 2013.**

IT IS SO ORDERED **December 26, 2012.**



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Statement of Issues
12 Against:

13 **HEATHER M. VAN ALSTINE**

14 Respondent.

Case No. 2012-320

OAH No. 2012030040

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR PUBLIC
REPROVAL**

[Bus. & Prof. Code § 495]

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Interim Executive Officer of the
22 Board of Registered Nursing. She brought this action solely in her official capacity and is
23 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
24 Rita M. Lane, Deputy Attorney General.

25 2. Respondent Heather M. Van Alstine (Respondent) is represented in this proceeding
26 by attorney Scott J. Harris, Esq., whose address is: 8383 Wilshire Boulevard, Suite 830, Beverly
27 Hills, California 90211.

28 ///

1 3. On or about May 5, 2011, the Board of Registered Nursing (Board), Department of
2 Consumer Affairs received an application for a Registered Nurse License from Respondent. The
3 Board denied the application on September 13, 2011.

4 JURISDICTION

5 4. Statement of Issues No. 2012-320 was filed before the Board and is currently pending
6 against Respondent. The Statement of Issues and all other statutorily required documents were
7 properly served on Respondent on November 29, 2011. A copy of Statement of Issues No. 2012-
8 320 is attached as Exhibit A and incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, fully discussed with counsel, and understands the
11 charges and allegations in Statement of Issues No. 2012-320. Respondent has also carefully read,
12 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
13 Disciplinary Order for Public Reproval.

14 6. Respondent is fully aware of her legal rights in this matter, including the right to a
15 hearing on the charges and allegations in the Statement of Issues; the right to confront and cross-
16 examine the witnesses against her; the right to present evidence and to testify on her own behalf;
17 the right to the issuance of subpoenas to compel the attendance of witnesses and the production of
18 documents; the right to reconsideration and court review of an adverse decision; and all other
19 rights accorded by the California Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
21 every right set forth above.

22 CULPABILITY

23 8. Respondent admits the truth of each and every charge and allegation in Statement of
24 Issues No. 2012-320.

25 9. Respondent agrees that there is cause to deny her application for a Registered Nurse
26 License and that a license issued to her is subject to discipline and she agrees to be bound by the
27 Board's Disciplinary Order below.

28 ///

CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order for Public Repeval shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order for Public Repeval, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. This Stipulated Settlement and Disciplinary Order for Public Repeval is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order for Public Repeval may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

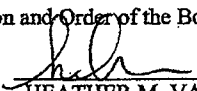
IT IS HEREBY ORDERED that the application of Respondent Heather M. Van Alstine for licensure is hereby granted. Upon successful completion of the licensure examination and all other licensing requirements, a license shall be issued to Respondent, however, immediately

1 thereafter, the Registered Nurse License, by way of letter from the Board's Executive Officer,
2 shall be publicly reprovod. The letter shall be in the same form as the letter attached as Exhibit B
3 to this stipulation.

4 ACCEPTANCE

5 I have carefully read the above Stipulated Settlement and Disciplinary Order for Public
6 Reproval and have fully discussed it with my attorney, Scott J. Harris, Esq. I understand the
7 stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated
8 Settlement and Disciplinary Order for Public Reproval voluntarily, knowingly, and intelligently,
9 and agree to be bound by the Decision and Order of the Board of Registered Nursing.

10 DATED: 7.23.12


11 HEATHER M. VAN ALSTINE
12 Respondent

13 I have read and fully discussed with Respondent Heather M. Van Alstine the terms and
14 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order
15 for Public Reproval. I approve its form and content.

16 DATED: _____

17 SCOTT J. HARRIS, ESQ.
18 Attorney for Respondent

19 ENDORSEMENT

20 The foregoing Stipulated Settlement and Disciplinary Order for Public Reproval is hereby
21 respectfully submitted for consideration by the Board of Registered Nursing of the Department of
22 Consumer Affairs.

23 Dated:

Respectfully submitted,

24 KAMALA D. HARRIS
25 Attorney General of California
26 LINDA K. SCHNEIDER
27 Supervising Deputy Attorney General

28 RITA M. LANE
Deputy Attorney General
Attorneys for Complainant

thereafter, the Registered Nurse License, by way of letter from the Board's Executive Officer, shall be publicly reprovod. The letter shall be in the same form as the letter attached as Exhibit B to this stipulation.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order for Public Reproval and have fully discussed it with my attorney, Scott J. Harris, Esq. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order for Public Reproval voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: _____

HEATHER M. VAN ALSTINE
Respondent

I have read and fully discussed with Respondent Heather M. Van Alstine the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order for Public Reproval. I approve its form and content

DATED: 2/2/2012


SCOTT J. HARRIS, ESQ.
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order for Public Reproval is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated: 8-6-12

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General

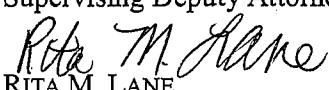

RITA M. LANE
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Statement of Issues No. 2012-320

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 State Bar No. 101336
AMANDA DODDS
4 Senior Legal Analyst
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Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Statement of Issues
12 Against:

Case No. 2012-320

13 **HEATHER M. VAN ALSTINE**
14 **2139 East 4th Street, #76**
Ontario, CA 91764

STATEMENT OF ISSUES

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in
20 her official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about May 5, 2011, the Board of Registered Nursing, Department of Consumer
23 Affairs received an application for a Registered Nurse License from Heather M. Van Alstine
24 (Respondent). On or about April 19, 2011, Heather M. Van Alstine certified under penalty of
25 perjury to the truthfulness of all statements, answers, and representations in the application. The
26 Board denied the application on September 13, 2011.

27 ///

28 ///

JURISDICTION

3. This Statement of Issues is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2736 of the Code provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that Code.

STATUTORY PROVISIONS

5. Section 475 of the Code states:

(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

(1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.

(2) Conviction of a crime.

(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(b) Notwithstanding any other provisions of this code, the provisions of this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).

(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.

6. Section 480 of the Code states:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

1 (3) (A) Done any act that if done by a licentiate of the business or profession
2 in question, would be grounds for suspension or revocation of license.

3 (B) The board may deny a license pursuant to this subdivision only if the
4 crime or act is substantially related to the qualifications, functions, or duties of the
5 business or profession for which application is made.

6

7 7. Section 482 of the Code states:

8 Each board under the provisions of this code shall develop criteria to evaluate
9 the rehabilitation of a person when:

10 (a) Considering the denial of a license by the board under Section 480; or

11 (b) Considering suspension or revocation of a license under Section 490.

12 Each board shall take into account all competent evidence of rehabilitation
13 furnished by the applicant or licensee.

14 8. Section 2761 of the Code states:

15 The board may take disciplinary action against a certified or licensed nurse or
16 deny an application for a certificate or license for any of the following:

17 (a) Unprofessional conduct, which includes, but is not limited to, the
18 following:

19

20 (f) Conviction of a felony or of any offense substantially related to the
21 qualifications, functions, and duties of a registered nurse, in which event the record of
22 the conviction shall be conclusive evidence thereof.

23

24 9. Section 2762 of the Code states:

25 In addition to other acts constituting unprofessional conduct within the meaning
26 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person
27 licensed under this chapter to do any of the following:

28 (a) Obtain or possess in violation of law, or prescribe, or except as directed by
a licensed physician and surgeon, dentist, or podiatrist administer to himself or
herself, or furnish or administer to another, any controlled substance as defined in
Division 10 (commencing with Section 11000) of the Health and Safety Code or any
dangerous drug or dangerous device as defined in Section 4022.

(b) Use any controlled substance as defined in Division 10 (commencing with
Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous
device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner
dangerous or injurious to himself or herself, any other person, or the public or to the

1 extent that such use impairs his or her ability to conduct with safety to the public the
2 practice authorized by his or her license.

3 (c) Be convicted of a criminal offense involving the prescription, consumption,
4 or self-administration of any of the substances described in subdivisions (a) and (b) of
5 this section, or the possession of, or falsification of a record pertaining to, the
6 substances described in subdivision (a) of this section, in which event the record of
7 the conviction is conclusive evidence thereof.

8

9 10. Section 2765 of the Code states:

11 A plea or verdict of guilty or a conviction following a plea of nolo contendere
12 made to a charge substantially related to the qualifications, functions and duties of a
13 registered nurse is deemed to be a conviction within the meaning of this article. The
14 board may order the license or certificate suspended or revoked, or may decline to
15 issue a license or certificate, when the time for appeal has elapsed, or the judgment of
16 conviction has been affirmed on appeal or when an order granting probation is made
17 suspending the imposition of sentence, irrespective of a subsequent order under the
18 provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his
19 or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of
20 guilty, or dismissing the accusation, information or indictment.

21 REGULATORY PROVISIONS

22 11. California Code of Regulations, title 16, section 1444 states:

23 A conviction or act shall be considered to be substantially related to the
24 qualifications, functions or duties of a registered nurse if to a substantial degree it
25 evidences the present or potential unfitness of a registered nurse to practice in a
26 manner consistent with the public health, safety, or welfare. Such convictions or acts
27 shall include but not be limited to the following:

28 (a) Assaultive or abusive conduct including, but not limited to, those violations
listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section
290 of the Penal Code.

12. California Code of Regulations, title 16, section 1445 states:

(a) When considering the denial of a license under Section 480 of the code,
the board, in evaluating the rehabilitation of the applicant and his/her present
eligibility for a license will consider the following criteria:

(1) The nature and severity of the act(s) or crime(s) under consideration as
grounds for denial.

1 (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s)
2 under consideration as grounds for denial which also could be considered as grounds
for denial under Section 480 of the code.

3 (3) The time that has elapsed since commission of the act(s) or crime(s)
4 referred to in subdivision (1) or (2).

5 (4) The extent to which the applicant has complied with any terms of parole,
probation, restitution, or any other sanctions lawfully imposed against the applicant.

6 (5) Evidence, if any, of rehabilitation submitted by the applicant.

7

8 **FIRST CAUSE FOR DENIAL OF APPLICATION**

9 **(July 31, 2008 Criminal Conviction for Possession of Marijuana on May 29, 2007)**

10 13. Respondent's application is subject to denial under section 480, subdivision (a)(1)
11 of the Code in that she was convicted of a crime that is substantially related to the qualifications,
12 duties, and functions of a registered nurse. The circumstances are as follows:

13 a. On or about July 31, 2008, in a criminal proceeding entitled *People of the*
14 *State of California v. Heather Marie Van Alstine*, in San Bernardino County Superior Court, case
15 number FWV703176, Respondent was convicted on her plea of guilty to violating Health and
16 Safety Code section 11357, subdivision (b), possession of not more than 28.5 grams of marijuana,
17 a misdemeanor, a count added by interlineation pursuant to a plea agreement that dismissed
18 charges of violating Health and Safety Code section 11359 (felony possession of marijuana for
19 sale), and Penal Code section 273a, subdivision (a) (felony child endangerment).

20 b. As a result of the conviction, on or about July 31, 2008, Respondent was
21 fined \$500, of which \$400 was suspended. On September 3, 2010, the court granted
22 Respondent's Petition for Dismissal and the case was dismissed under Penal Code section 1203.4,
23 subdivision (a).

24 c. The facts that led to the conviction are that on or about the evening of May
25 29, 2007, the Ontario/Upland Narcotics Task Force served a warrant on the home Respondent
26 shared with her boyfriend and their infant child. The warrant was based on information received
27 from a confidential informant that Respondent's boyfriend was selling marijuana out of the
28 residence. Upon entry to Respondent's trailer, the officers noted a strong odor of burnt marijuana

1 as if someone was recently smoking it inside the residence. Respondent's baby was sitting in a
2 swinger in the living room. A search of the trailer was conducted and the officers found several
3 baggies of marijuana located in different rooms, one of which would have been accessible to the
4 baby. There was a digital scale in the dining room, and numerous bongs and pipes used to smoke
5 marijuana were in plain view throughout the house. Inside Respondent's vehicle, the officers
6 found a small baggy of marijuana and a pipe. Respondent told the officers that she knew she
7 should not smoke marijuana in the presence of her baby but that she needed it for her migraine
8 headaches. A total of 33.88 grams of marijuana was recovered. The officers made a referral to
9 Child Protective Services.

10 **SECOND CAUSE FOR DENIAL OF APPLICATION**

11 **(Acts, if Done by a Licentiate, Would be Grounds for Discipline)**

12 14. Respondent's application is subject to denial under section 480, subdivision (a)(3)(A)
13 of the Code as follows:

14 a. On July 31, 2008, Respondent was convicted of an offense that is substantially
15 related to the qualifications, duties, and functions of a registered nurse, a ground for discipline
16 pursuant to section 2761, subdivision (f) of the Code for a licensed registered nurse.

17 b. On May 29, 2007, Respondent possessed marijuana illegally, which is a ground
18 for discipline pursuant to section 2762, subdivision (a) of the Code for a licensed registered nurse.

19 c. Respondent's use of marijuana, as she admitted to law enforcement officers on
20 May 29, 2007, is a ground for discipline pursuant to section 2762, subdivision (b) of the Code for
21 a licensed registered nurse.

22 d. On July 31, 2008, Respondent was convicted of a drug-related offense, a
23 ground for discipline pursuant to section 2762, subdivision (c) of the Code for a licensed
24 registered nurse.

25 ///

26 ///

27 ///

28 ///

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Denying the application of Heather M. Van Alstine for a Registered Nurse License;
2. Taking such other and further action as deemed necessary and proper.

DATED: November 22, 2011

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SD2011801475

Exhibit B

Letter of Public Reproval in Case No. 2012-320



December 26, 2012

Heather M. Van Alstine
2139 East 4th Street #76
Ontario, CA 91764

RE: LETTER OF PUBLIC REPROVAL
In the Matter of the Statement of Issues Against:
Heather M. Van Alstine

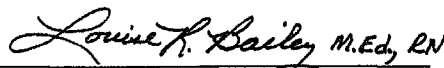
Dear Ms. Van Alstine:

On November 22, 2011, the Board of Registered Nursing, Department of Consumer Affairs, State of California, filed a Statement of Issues regarding your application for a Registered Nurse License. The Statement of Issues alleged that you engaged in unprofessional conduct under Business and Professions Code section 480(a)(1) as a result of your conviction for possession of marijuana, and Business and Professions Code section 480(a)(3)(A) for acts, which done by a licentiate, would be grounds for discipline when you illegally possessed and used marijuana.

Taking into consideration the incident occurred over five years ago, the conviction was dismissed under Penal Code section 1203.4(a), and that there are other mitigating circumstances in this case that support the determination that you are safe to practice as a Registered Nurse, the Board has decided that the charges warrant a public reproof.

Accordingly, in resolution of this matter under the authority provided under Business and Professions Code section 495, the Board of Registered Nursing, Department of consumer Affairs issues this letter of public reproof.

Sincerely,


LOUISE R. BAILEY, M.ED., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California